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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,259	11/19/2003	Joseph S. Ciulla	JC0001	7741
7590	04/03/2006			
Joe Ciulla 109 E. 36th Street New York, NY 10016			EXAMINER PUROL, SARAH L	
			ART UNIT 3634	PAPER NUMBER

DATE MAILED: 04/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/717,259	<b>Applicant(s)</b> CIULLA, JOSEPH S.	
	<b>Examiner</b> Sarah Purol	<b>Art Unit</b> 3634	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 12-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,9-11,18,19 is/are rejected.
- 7) ☒ Claim(s) 7,8 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DRAWINGS

The threaded bore shown in Figure 15 is not labeled. Applicant is required to review all of the drawings and ensure all elements have reference numerals.

## SPECIFICATION

On page 13 of the specification both the viscoelastic material and the constraining layer is referred to as (115). Clarification is required. Also, "strut channel" as used in the claims is not clearly referred to by that title in the specification. The specification refers to element 35 as a "cross bar" and element 15 as "a column". Applicant is required to review the entire disclosure to ensure that the same terminology used in the claims is that which is used in the specification to obviate indefiniteness of the disclosure.

## CLAIMS

Claims 2 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The "floor spikes" referred to in claim 2 are not related to any structure in claim 1.

Claim 3 is essentially a repeat of claim 1 and fails to further limit it.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,4,6,9,18,19 are rejected under 35 U.S.C. 102(b) as being anticipated by Patrick 3,905,483.

Note: rack system Figure 1, horizontal elongated elements 44, vertical elongated elements 48, mounts 54, threaded stud 53, channel nuts 38 with threaded bores, bearing assembly 28, 40,38.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patrick '483 in view of Crane et al. 5,308,675. Crane teaches a load bearing structural support for machinery including a constrained layer of viscoelastic material for the purpose of damping vibrational energy. To provide the rack of Patrick '483 with such a layer for the same purpose would have been obvious to one having ordinary skill in the art at the time of the invention.

Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patrick '483 in view of Kwoh 5,169,104. Kwoh teaches a mount having floor spikes and viscoelastic material for the purpose of damping vibrational energy. To provide the feet of Patrick with spikes and viscoelastic material for the same purpose

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would have been obvious for one having ordinary skill in the art at the time of the invention.

Claims 7,8 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Similar equipment mounting racks and vibrational mounts are illustrated by Field 1,558,855; Dolan 3,471,029; Han 6,511,038; Liang 5,942,735; Houghton, Jr. et al. 6,626,411; Herren et al. 6,648,295; Jitsukawa 6,714,405.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah Purol. The examiner can normally be reached on Mon. Tue. Thurs. For general questions relating to this application please e-mail the examiner at [Sarah.Purol@USPTO.GOV](mailto:Sarah.Purol@USPTO.GOV).

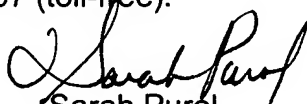
The examiner prefers e-mail to telephone correspondence whenever possible.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the  
Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Sarah Purol  
Primary Examiner  
AU 3634